

IN THE IOWA DISTRICT COURT FOR JEFFERSON COUNTY

STATE OF IOWA, ex rel., IOWA
DEPARTMENT OF NATURAL
RESOURCES (99AG23542),

Plaintiff,

VS.

ROBERT MILLER,

Defendant.

LAW NO. 07EQ002306

PETITION AT LAW

COMES NOW Plaintiff State of Iowa, ex rel., Iowa Department of Natural Resources
(hereafter "DNR"), and for its claim against Defendant Robert Miller states as follows:

Introduction

1. The State of Iowa seeks the assessment of civil penalties and injunctive relief against Defendant Robert Miller arising from violations of water quality, solid waste and air quality laws at his metal salvage operation located within the City of Batavia in Jefferson County, Iowa. The violations involve the open dumping and open burning of discarded appliances, metal, waste tires, treated and untreated lumber, garbage, appliances, and furniture; the demanufacturing of appliances without a permit; and the operation of a salvage facility without a stormwater discharge permit.

Parties

2. The State of Iowa is a sovereign state of the United States of America.
3. The DNR is a duly constituted agency of the State of Iowa pursuant to Iowa Code section 455A.2.

4. Defendant Robert Miller is an Iowa resident who owns a small metal salvage operation on property located at 107 Collins Street, in Batavia, Iowa.

Jurisdiction

Storm Water Discharge Regulations

5. Under Iowa law, the Environmental Protection Commission (EPC) is required to develop comprehensive plans and programs for the prevention, control and abatement of water pollution. Iowa Code § 455B.173. Pursuant to section 455B.173, the EPC has adopted 567 Iowa Admin. Code chapters 60-69.

6. Under Iowa law, no person shall operate any wastewater disposal system or part thereof without an operation permit issued by the director. 567 Iowa Admin. Code 64.3(1).

7. A Notice of Intent for coverage under a general permit must be made on the appropriate form provided by the DNR listed in 567 Iowa Admin. Code 60.3(2) and in accordance with 567 Iowa Admin. Code 64.6. For existing "storm water discharge associated with industrial activity," with the exception of discharges identified in 567 Iowa Admin. Code 64.3(4)(b)(2) and (3), a Notice of Intent must be submitted on or before October 1, 1992. 567 Iowa Admin. Code 64.3(4)(b)(1). For "storm water discharge associated with industrial activity," which initiates operation after October 1, 1992, with the exception of discharges identified in 567 Iowa Admin. Code 64.3(4)(b)(2) and (3), a Notice of Intent must be submitted at least 24 hours prior to the date operation is scheduled to begin. 567 Iowa Admin. Code 64.3(4)(b)(4).

8. "[S]torm water discharge associated with industrial activity" is defined under Iowa law as the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. 567 Iowa Admin. Code 60.2. The term "industrial activity" is defined to include facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards. 567 Iowa Admin. Code 60.2.

9. The director of the DNR is authorized to issue storm water discharge general permits for a class of facilities which could be described or conditioned by a single permit. Iowa Code § 455B.103A(1); 567 Iowa Admin. Code 64.4(2)(a)(1).

10. The DNR has adopted a general permit for Storm Water Discharge Associated with Industrial Activity. 567 Iowa Admin. Code 64.15(1).

11. An applicant proposing to conduct activities covered by General Permit No. 1 "Storm Water Discharge Associated with Industrial Activity" is required to file a complete Notice of Intent by submitting to the DNR the following: 1) a fully completed Notice of Intent application form (Form 542-1415); 2) a general permit fee according to the schedule in 567 Iowa Admin. Code 64.16 payable to the DNR; and, 3) a demonstration that a public notice was published in at least two newspapers with the largest circulation in the area in which the facility is located or the activity will occur. 567 Iowa Admin. Code 64.6(1).

12. The enforcement provisions of Iowa Code chapter 455B, division III, part 1, of Iowa Code chapter 455B apply to general permits for storm water discharge. Iowa Code § 455B.103A(5).

13. A person who violates any provision of part 1 of division III of Iowa Code chapter 455B or any permit, rule, standard, or order issued under part 1 of division III of chapter 455B shall be subject to a civil penalty not to exceed Five Thousand Dollars for each day of such violation. Iowa Code § 455B.191(1).

14. The Attorney General shall, at the request of the director with approval of the EPC, institute any legal proceedings, including an action for an injunction or a temporary injunction, necessary to enforce the penalty provisions of part 1 of division III of chapter 455B or any rules promulgated or any provision of any permit issued under part 1 of division III of chapter 455B. Iowa Code § 455B.191(4).

Solid Waste Regulations

15. Iowa Code section 455B.307(1) and 567 Iowa Admin. Code 100.4 prohibit dumping or depositing or permitting dumping or depositing of solid waste at any place other than a facility permitted by the DNR, unless otherwise permitted by rule.

16. Under Iowa Code section 455B.304, the Environmental Protection Commission of the DNR is required to establish rules for the proper administration of Iowa Code chapter 455B, Division IV, Part 1, relative to the treatment and disposition of solid waste. Pursuant thereto, the Commission has adopted 567 Iowa Admin. Code chapters 100-119 concerning solid waste management and disposal.

17. 567 Iowa Admin. Code 118.2(1) prohibits persons from demanufacturing appliances unless an Appliance Demanufacturing Permit (ADP) has first been obtained from the DNR.

18. 567 Iowa Admin. Code 118.4(2) provides that no method of handling discarded appliances may be used which in any way damages, cuts or breaks refrigerant lines or crushes compressors, capacitors, or mercury-containing components that may cause a release of refrigerant, PCBs or mercury into the environment.

19. The Attorney General is authorized under Iowa Code section 455B.307(2), on request of the DNR, to institute any legal proceedings necessary in obtaining compliance with an order of the director or prosecuting any person for a violation, of Iowa Code chapter 455B, Division IV, Part 1, or the rules issued under that part. Under Iowa Code section 455B.307(3), any person who violates any provision of Iowa Code chapter 455B, Division IV, Part 1, or any rule or any order adopted pursuant to that part is subject to a civil penalty for each day of violation not to exceed Five Thousand Dollars for each day of violation.

Air Quality Regulations

20. Under Iowa Code section 455B.133(2), the Environmental Protection Commission of the DNR is required to adopt rules pertaining to the evaluation, abatement, control, and prevention of air pollution. Pursuant thereto, the Commission has adopted 567 Iowa Admin. Code chapters 20-30 concerning air quality.

21. 567 Iowa Admin. Code 23.2(1) prohibits any person from allowing, causing, or permitting open burning of combustible materials, unless a variance has been granted under 567 Iowa Admin. Code 23.2(2), or one of the exemptions listed in 567 Iowa Admin. Code 23.2(3) applies.

22. Under Iowa Code section 455B.146, the Attorney General is authorized, on request of the DNR, to institute a civil action in district court for injunctive relief to prevent any further violation of any order, permit, or rule of the department, or for the assessment of a civil penalty for each day of violation not to exceed Ten Thousand Dollars for each day of violation, or for both injunctive relief and civil penalties.

Facts

23. Effective October 1, 2002 through October 1, 2007, the DNR issued National Pollutant Discharge Elimination System (NPDES) General Permit No. 1 (a copy of which is attached, marked Exhibit A, and incorporated by reference) for Storm Water Discharge Associated with Industrial Activity. The permit applies to all areas of the State of Iowa and includes storm water discharges associated with activity at defendant's salvage facility.

24. NPDES General Permit No. 1 requires, inter alia, the submission of a Notice of Intent (NOI) to the DNR in accordance with the requirements of the permit to be authorized to discharge under the general permit, and the completion of a Pollution Prevention Plan before the NOI is submitted to the DNR. NPDES General Permit No. 1, §§ I. D. 1; III. C. 1. The permits further require permittees to comply with all conditions of the permit and accompanying Pollution Prevention Plan, and make noncompliance therewith a violation of the Code of Iowa and the Clean Water Act and grounds for enforcement action; for termination of coverage under the general permit; or for denial of a request for coverage under a reissued general permit. NPDES General Permit No. 1, § VI. A.

25. On January 30, 2004, DNR officials inspected defendant's facility in response to a complaint that defendant was dumping discarded appliances and other metal on his property. During the inspection, DNR officials confirmed that a salvage operation was located at the site; that defendant was dumping solid waste illegally; that defendant was operating a salvage yard without the required storm water discharge permit; and that defendant was accepting appliances without an appliance demanufacturing permit. In response, DNR officials sent defendant a Notice of Violation on February 2, 2004, directing him to either obtain a storm water discharge permit or remove all salvageable metal and any solid waste by July 30, 2004, and directing him not to dispose of any solid waste by burning or burying.

26. On August 16, 2004, DNR officials inspected defendant's facility in response to a complaint alleging continued violations at the site and observed evidence of three illegal open burn sites. Defendant admitted to burning solid waste, including waste tires, at that time. In response, DNR officials sent defendant a second Notice of Violation on August 19, 2004, citing violations of the prohibitions against open burning and open dumping of solid waste and the requirements related to operation of a salvage yard or an appliance demanufacturing operation. DNR officials further instructed defendant to complete cleanup of the site by September 20, 2004, or submit a storm water permit application by September 30, 2004. Defendant was specifically instructed to immediately cease all illegal open burning.

27. On October 14, 2004, DNR officials issued a Notice of Violation to defendant for failure to comply with the deadline for cleanup of his facility.

28. On May 11, 2006, DNR officials inspected defendant's facility in response to a complaint of open burning of solid waste and observed an illegal fire that had just been extinguished by the Batavia Fire Department.

29. On May 18, 2006, DNR officials inspected defendant's facility in response to a May 15, 2006 complaint of illegal disposal of solid waste and observed evidence of open burning and open dumping of solid waste at the site, and that salvage operations and appliance demanufacturing were continuing to occur without the appropriate storm water and appliance demanufacturing permits. In response, DNR officials sent defendant a Notice of Violation on May 24, 2006, advising him that the matter was being referred to DNR's Legal Bureau for enforcement action. In addition, DNR officials contacted the Batavia Volunteer Fire Department and received records documenting responses to illegal fires at defendant's facility on October 1, 2003, August 6, 2005, May 11, 2006, and May 20, 2006.

30. Defendant has failed to submit a Notice of Intent to obtain a storm water discharge permit and failed to submit and implement an adequate Pollution Prevention Plan for his facility.

31. Defendant has failed to obtain an Appliance Demanufacturing Permit for his facility.

Violations

32. Defendant has violated 567 Iowa Admin. Code 64.3, 64.4(2) by failing to obtain a storm waster discharge permit.

33. Defendant has violated NPDES General Permit No. 1, § III. C. 1 by failing to submit and implement a Pollution Prevention Plan.

34. Defendant has violated 567 Iowa Admin. Code 64.6(1) and NPDES General Permit No. 1, § I. D. 1 by failing to submit a Notice of Intent to be authorized to discharge under the terms of the General Permit.

35. Defendant has violated 567 Iowa Admin. Code 118.2(1) by failing to obtain an Appliance Demanufacturing Permit.

36. Defendant has violated 567 Iowa Admin. Code 23.2(1) by allowing, causing, or permitting open burning of combustible materials on the property described in paragraph four (4), despite the fact that no variance has been granted under 567 Iowa Admin. Code 23.2(2), and none of the exemptions listed in 567 Iowa Admin. Code 23.2(3) applies.

37. Defendant has violated Iowa Code section 455B.307(1) and 567 Iowa Admin. Code 100.4 by failing to properly dispose of the solid waste from the property described in paragraph four (4).

WHEREFORE, plaintiff requests that the Court:

- a. assess civil penalties against defendant not to exceed the statutory maximum pursuant to Iowa Code section 455B.146 for each day of violation of 567 Iowa Admin. Code 23.2(1);
- b. assess civil penalties against defendant not to exceed the statutory maximum pursuant to Iowa Code section 455B.191(1) for each day of violation of 567 Iowa Admin. Code 64.3 and 64.6(1) and NPDES General Permit No. 1, §§ I. D. 1 and III. C. 1;
- c. assess civil penalties against defendant not to exceed the statutory maximum pursuant to Iowa Code section 455B.307(3) for each day of violation of Iowa Code section 455B.307(1), 567 Iowa Admin. Code 100.4, 567 Iowa

Admin. Code 118.2(1) and 567 Iowa Admin. Code 118.4(2);


- d. issue a permanent injunction pursuant to Iowa Code section 455B.146 enjoining defendant from further violations of the provisions of 567 Iowa Admin. Code 23.2(1);
- e. issue an injunction pursuant to Iowa Code section 455B.191(4) requiring defendant to immediately obtain a storm water discharge permit, and immediately submit a Pollution Prevention Plan with respect to his salvage facility, or alternatively, remove and properly dispose of all appliances, computers, tires, paint cans, metals, and other solid waste from his salvage facility;
- f. issue a permanent injunction pursuant to Iowa Code section 455B.191(4) enjoining defendant from further violations of the provisions of 567 Iowa Admin. Code 64.3, 64.4(2) and 64.6(1); and NPDES General Permit No. 1, §§ I. D. 1 and III. C. 1;
- g. issue an injunction pursuant to Iowa Code section 455B.307(2) requiring defendant to immediately obtain an Appliance Demanufacturing Permit, or alternatively, cease the demanufacturing of appliances at his facility or elsewhere in the State of Iowa;
- h. issue an injunction pursuant to Iowa Code section 455B.307(2) requiring defendant to immediately cease handling discarded appliances in any way which damages, cuts or breaks refrigerant lines or crushes compressors, capacitors, or mercury-containing components that may cause a release of refrigerants, PCBs or mercury into the environment; and,
- i. issue a permanent injunction pursuant to Iowa Code section 455B.307(2) enjoining defendant from further violations of the provisions of Iowa Code section 455B.307(1), 567 Iowa Admin. Code 101.3, 567 Iowa Admin. Code 118.2(1), and 567 Iowa Admin. Code 118.4(2).

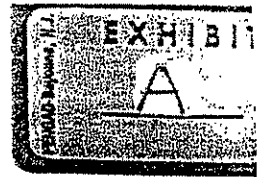
Plaintiff further requests that the Court tax the costs of this action to defendant and provide such other relief as the Court may deem just and proper.

Respectfully submitted,

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IOWA DEPARTMENT OF NATURAL RESOURCES

**NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM (NPDES)**

GENERAL PERMIT NO. 1

**EFFECTIVE DATES
OCTOBER 1, 2002 THROUGH OCTOBER 1, 2007**

FOR

**STORM WATER DISCHARGE ASSOCIATED WITH
INDUSTRIAL ACTIVITY**

EXHIBIT A PAGE 1 OF 29

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PART I. COVERAGE UNDER THIS PERMIT

A. PERMIT AREA. This permit covers all areas of the State of Iowa.

B. ELIGIBILITY.

1. Except for storm water discharges identified under Part I.B.2., this permit may authorize the discharge of all new and existing "storm water discharge associated with industrial activity" (defined in Part VIII of this permit) that are composed entirely of storm water or storm water mixed with non-storm water listed in Part III.A.

2. LIMITATIONS ON COVERAGE. The following types of "storm water discharge associated with industrial activity" are NOT authorized by this permit:

A. "storm water discharge associated with industrial activity" which are subject to an existing effluent guideline limitation for a discharge of storm water or a discharge which is a combination of storm water and process water¹;

B. "storm water discharge associated with industrial activity" from facilities with an existing NPDES individual permit for the storm water discharge or which are issued an individual permit in accordance with Part I.C. of this permit. Storm water discharge under an existing individual NPDES permit may be authorized by this permit after the existing permit expires;

¹ For the purpose of this permit, the following effluent guideline limitations address storm water: cement manufacturing (40 CFR 411); feedlots (40 CFR 412); fertilizer manufacturing (40 CFR 418); petroleum refining (40 CFR 419); phosphate manufacturing (40 CFR 422); steam electric (coal pile runoff) (40 CFR 423); coal mining (40 CFR 434); mineral mining and processing (40 CFR 436); ore mining and dressing (40 CFR 440); and asphalt emulsion (40 CFR 443).

C. "storm water discharge associated with industrial activity for construction activities",

D. "storm water discharge associated with industrial activity from asphalt plants, concrete batch plants, rock crushing plants"; and, sand and/or gravel operations; except for facilities which are subject to requirements to report releases into the environment under Section 313 of SARA Title III for chemicals which are classified as Section 313 water priority chemicals.

E. "storm water discharge associated with industrial activity" that the Department has shown to be or may reasonably be expected to be contributing to a violation of a water quality standard.

3. "Storm water discharge associated with industrial activity" which are authorized by this permit may be combined with other sources of storm water which are not classified as associated with industrial activity pursuant to 40 CFR 122.26(b)(14).

4. EXCLUSIONS. The following "storm water discharges associated with industrial activity" do not require an NPDES permit:

A. Discharges from agricultural and silvicultural activities including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands, but not discharges from concentrated animal feeding operations as defined in 40 CFR 122.23, concentrated aquatic production facilities as defined in 40 CFR 122.24, discharges to aquaculture projects as defined in 40 CFR 122.25, and discharges from silvicultural point sources as defined in 40 CFR 122.27.

B. Discharges of storm water runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances used for collecting and conveying precipitation runoff and which are not contaminated by

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contact with, or do not come in contact with, any overburden, raw material, intermediate products, finished products, byproduct, or waste products located on the site of such operations.

5. DEFERMENTS. With the exception of discharges from a steam electric generation powerplant, airport, or uncontrolled sanitary landfill, the application deadline and requirements for any "storm water discharge associated with industrial activity" which is owned or operated by a municipality² serving a population less than 100,000 is waived until March 10, 2003.

C. REQUIRING AN INDIVIDUAL PERMIT.

1. The Department may require any person authorized to discharge under this permit to apply for and obtain an individual NPDES permit. When the Department notifies a discharger to apply for an individual permit a deadline, not longer than one year, will be established for submitting the application. If a person fails to submit an individual NPDES permit application by the deadline established by the Department under this paragraph, the applicability of this general permit to the NPDES permittee is automatically terminated at the end of the day specified for application submittal.
2. Any owner or operator authorized to discharge by this permit may request to be excluded from coverage under this permit by applying for an individual permit. The application for an individual permit shall include Form 1 and Form 2F and all applicable fees and shall be submitted to the Department in accordance with subrule 567-64.3(4) of the Iowa Administrative Code
3. When an individual NPDES permit is issued to an owner or operator, the applicability of this permit to the individual NPDES permittee is automatically terminated on the issuance date of the individual permit. When an individual NPDES permit is denied to an

owner or operator for a discharge otherwise subject to this permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Department.

D. AUTHORIZATION.

1. Discharges of storm water associated with industrial activity must submit a complete Notice of Intent (NOI) in accordance with the requirements of Part II of this permit to be authorized to discharge under this general permit.
2. Unless notified by the Department to the contrary, ~~owners or operators~~ who submit such notification are authorized to discharge storm water associated with industrial activity under the terms and conditions of this permit. Upon review of the NOI, the Department may deny coverage under this permit and require submittal of an application for an individual NPDES permit.

PART II. NOTICE OF INTENT REQUIREMENTS

A. DEADLINES FOR NOTIFICATION.

1. Individuals who intend to obtain coverage for an existing storm water discharge associated with industrial activity which expired on or after October 1, 2002, shall submit a complete Notice of Intent (NOI) in accordance with the requirements of Part II.C. on or before April 1, 2003.
2. Facilities which begin discharging storm water associated with industrial activity after October 1, 1992 shall submit a complete Notice of Intent (NOI) in accordance with the requirements of Part II.C. at least 24 hours prior to the start of the operation.

- B. FAILURE TO NOTIFY. Owners (or operators when owners do not operate the facility), who fail to notify the Department of their intent to be covered by this permit, and discharge

² see Definitions, Part VIII

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pollutants to waters of the state without an NPDES permit, are in violation of the Clean Water Act and the Code of Iowa.

C. CONTENTS OF THE NOTICE OF INTENT. A complete Notice of Intent shall include the items described in Parts II.C.1., II.C.2., and II.C.3. of this permit.

1. A completed Notice of Intent Form, DNR Form 542-1415, signed in accordance with Part VI.G. of this permit. The information on the form shall include the following information:

A. Name, address, and location of the facility for which this notification is submitted;

B. The 4-digit SIC code that best represents the principal products or activities provided by the facility;

C. The operator's name, address, telephone number, and status (federal, state, private, public or other entity);

D. The location should be provided as the 1/4 section (NE, SW, SE, NW), section, township, range and county in which the storm water discharge is located;

E. The type of discharge (new or existing); whether or not the discharge is to a municipal separate storm sewer system; the date the discharge is to commence; the permit status of the discharge; and, the name of the receiving water(s).

F. An indication of whether this facility has existing quantitative data describing the concentration of pollutants in storm water discharges available and a summary of available existing data. (Existing data should not be included as part of the NOI, it should be retained as part of the Pollution Prevention Plan).

G. A certification that the terms and conditions of the general permit will be met.

2. APPLICABLE FEES. The applicable fees specified in Iowa Administrative Code 567--64.16(455B).

3. PUBLIC NOTIFICATION. A demonstration that the public notice requirements in Iowa Administrative Code 567--64.6(1)"c"(1) was published at least one day, in at least two newspapers with the largest circulation in the area in which the facility is located or the activity will occur.

- D. WHERE TO SUBMIT. Facilities which discharge storm water associated with industrial activity must submit items described in Part II.C.1., 2., and 3. of this permit to the Department at the following address:

Storm Water Coordinator
Department of Natural Resources
Henry A. Wallace Building
502 E. 9th St.
Des Moines, IA 50319-0034

- E. RENOTIFICATION. Within 180 days after this general permit expires, the permittee is required to resubmit a completed Notice of Intent with the Department for coverage under the new general permit. If a general permit has not been reissued within 180 days after expiration, the storm water discharger must apply for an individual NPDES permit according to the procedures identified in Iowa Administrative Code 567--64.3(4).

F. NOTICE OF DISCONTINUATION.

1. A notice to discontinue the activity covered by this NPDES general permit must be made in writing to the Department within 30 days of the discontinuance of the discharge.

2. The Notice of Discontinuation shall include the following information:

A. the name of the owner/operator to which the permit was issued;

B. the general permit number and permit authorization number;

C. the date the discharge will be or has been discontinued, and,

D. the following certification signed in accordance with Part VI. G. of this permit:

"I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by this NPDES General Permit No. 1 have been eliminated. I understand that by submitting this Notice of Discontinuation, that I am no longer authorized to discharge storm water associated with industrial activity by Iowa Department of Natural Resources General NPDES Permit No. 1. and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit."

PART III. SPECIAL CONDITIONS, MANAGEMENT PRACTICES, AND OTHER NON-NUMERIC LIMITATIONS

A. PROHIBITION ON NON-STORM WATER DISCHARGES. All discharges covered by this permit shall be composed entirely of storm water except as follows:

discharges from fire fighting activities, fire hydrant flushings, potable water sources including waterline flushings, uncontaminated groundwater, foundation or footing drains where flows are not contaminated with process materials such as solvents, springs, riparian habitats, wetlands, irrigation water, exterior building washdown, pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred and where detergents are not used, and air conditioning condensate, that are combined with storm water discharges associated with industrial activity may be authorized by this permit provided the non-

storm water component of the discharge is in compliance with Part III.C.4.H.

B. RELEASES IN EXCESS OF REPORTABLE QUANTITIES. Any owner or operator identified in the pollution prevention plan is subject to the spill notification requirements as specified in 455B.386 of the Iowa Code. Iowa law requires that as soon as possible but not more than six hours after the onset of a "hazardous condition"³ the Department and local sheriff's office or the office of the sheriff of the affected county be notified.

The storm water pollution prevention plan described in Part III.C. of this permit must be modified within 7 calendar days of knowledge of the release to provide a description of the release and the circumstances leading to the release and to identify and provide for the implementation of steps to prevent the reoccurrence of such releases and to respond to such releases.

C. STORM WATER POLLUTION PREVENTION PLANS. A storm water pollution prevention plan shall be developed for each facility covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. The plan shall describe and ensure the implementation of practices which will be used to reduce pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

³ see Definitions, Part VIII

1. DEADLINES FOR PLAN PREPARATION AND COMPLIANCE.

A. The pollution prevention plan shall be completed before the Notice of Intent is submitted to the Department. Full implementation of the pollution prevention plan will be executed concurrently with operations at the facility. In the case of a new facility, with the start of operations at the facility.

2. A. The pollution prevention plan shall be signed in accordance with Part VI.G. (Iowa Administrative Code 567-64.3(8)), and shall be retained on site in accordance with Part V.E. of this permit.

B. The owner or operator of a facility with a storm water discharge covered by this permit shall make plans available upon request to the Department or in the case of a storm water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system.

C. The Department may review the plan at any time and may notify the permittee that the plan does not meet one or more of the minimum requirements of this Part. After such notification from the Department, the permittee shall make changes to the plan and shall submit to the Department a written certification that the requested changes have been made. Unless otherwise provided by the Department, the permittee shall have 30 days after such notification to make the necessary changes.

3. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to waters of the U.S. or if the storm water pollution prevention plan proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges associated with

industrial activity. Amendments to the plan may be reviewed by the Department in the same manner as Part III.C.2. above.

4. The plan shall include, at a minimum, the following items:

A. DESCRIPTION OF POTENTIAL POLLUTANT SOURCES. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

A.(1). A site map showing an outline of the drainage area of each storm water outfall; each existing structural control measure to reduce pollutants in storm water runoff, and each surface water body;

A.(2). A narrative description of known significant materials that have been treated, stored or disposed, in a manner to allow exposure to storm water, during the three years prior to the discharge authorization date of this permit; the method of on-site storage or disposal; materials management practices employed to minimize contact of these materials with storm water runoff; materials loading and access areas; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives;

A.(3). A list of releases which prompted the existence of a hazardous condition (as defined in Part VIII of this permit) that occurred at the facility after the effective date of this permit;

A.(4). For each area of the plant that generates storm water associated with industrial activity with a reasonable potential

for containing significant amounts of pollutants, a prediction of the direction of flow, and an estimate of the types of pollutants which are likely to be present in storm water discharges; and,

A.(5). A summary of existing sampling data describing pollutants in storm water discharges.

B. STORM WATER MANAGEMENT CONTROLS. Each facility covered by this permit shall develop a description of storm water management controls appropriate to the facility, and, implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

B.(1). **RESPONSIBLE PERSON.** The plan shall identify a specific individual or individuals within the organization responsible for developing the storm water pollution prevention plan and assisting in its implementation, maintenance, and revision.

B.(2). **RISK IDENTIFICATION AND ASSESSMENT/MATERIAL INVENTORY.** The storm water pollution prevention plan shall assess the potential of various sources at the plant to contribute pollutants to storm water discharges associated with industrial activity. The plan shall include an inventory of the types of materials handled. Facilities subject to SARA Title III, Section 313 shall include in the plan a description of releases to land or water of SARA Title III water priority chemicals that have occurred during the three years prior to the discharge authorization date of this permit. Each of the following shall be evaluated for the reasonable potential for contributing pollutants to runoff:

- (a) loading and unloading operations;
- (b) outdoor storage activities;

- (c) outdoor manufacturing or processing activities;
- (d) dust or particulate generating processes;
- (e) on-site waste disposal practices.

Factors to consider include the toxicity of chemicals; quantity of chemicals used, produced, or discharged; the likelihood of contact with storm water; and history of "hazardous condition" reporting.

B.(3). **PREVENTIVE MAINTENANCE.** The plan shall describe a preventive maintenance program that involves inspection and maintenance of storm water management devices (e.g. cleaning oil/water separators, catch basins) as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

B.(4). **GOOD HOUSEKEEPING.** Good housekeeping requires the maintenance of a clean, orderly facility.

B.(5). **SPILL PREVENTION AND RESPONSE PROCEDURES.** Areas where potential spills can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, material handling procedures and storage requirements should be considered in the plan. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up shall be available to personnel.

B.(6). **STORM WATER MANAGEMENT.** The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the source of pollutants). Based on an assessment of the potential of various sources at the plant to contribute pollutants to storm water discharges associated with industrial activity (see Part III.C.4.B.(2). of this permit), the

plan shall provide that measures determined to be reasonable and appropriate shall be implemented and maintained.

B.(7). SEDIMENT AND EROSION PREVENTION. The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify measures to limit erosion.

B.(8). EMPLOYEE TRAINING. Employee training programs shall inform personnel at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.

B.(9). RECORD KEEPING AND INTERNAL REPORTING PROCEDURES. Incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges shall be included in the records. Inspection and maintenance activities shall be documented and recorded.

B.(10). NON-STORM DISCHARGES. The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include a description of the results of any test for the presence of non-storm water discharges, the method used, the date of any testing, and the on-site drainage points that were directly observed during the test. This certification may not be feasible if the facility operating the storm water discharge does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution plan shall indicate why the certification required by this part was not feasible. A discharger that is unable to provide the certification required by this

paragraph must notify in accordance with Part V.A. of this permit.

C. Visual Inspection. Qualified personnel shall inspect designated equipment and plant area at appropriate intervals specified in the plan, but, except as provided in paragraphs III.C.4.c.(4). and (5)., in no case less than once a year;

C.(1). Material handling areas and other potential sources of pollution identified in the plan in accordance with paragraph III.C.4.A. of this permit shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Structural storm water management measures, sediment and control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

C.(2). Based on the results of the inspection, the description of potential pollutant sources identified in the plan in accordance with paragraph III.C.4.A. of this permit and pollution prevention measures identified in the plan in accordance with paragraph III.C.4.B. of this permit shall be revised as appropriate within two weeks of such inspection and shall provide for implementation of any changes to the plan made in accordance with the plan in a timely manner, but in no case less than twelve weeks from the inspection.

C.(3). A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph III.C.4.c.(2). of the permit shall be made and retained as part of the storm water pollution prevention plan for at least three years. The report shall be signed in accordance with Part VI.G. of this permit.

C.(4). Where annual site inspections are shown in the plan to be impractical for sites where an employee is not stationed or does not routinely visit the site, site inspections required under this part shall be conducted at appropriate intervals specified in the plan, but, in no case less than once in three years.

C.(5). Where annual site inspections are shown in the plan to be impractical for inactive sites (sites where industrial activity is no longer conducted), site inspections required under this part shall be conducted at appropriate intervals specified in the plan, but, in no case less than once in five years. At least one site inspection required under this part shall be conducted prior to the date two years after such site becomes inactive.

D. SPECIAL REQUIREMENTS FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY THROUGH MUNICIPAL SEPARATE STORM SEWER SYSTEMS. Facilities covered by this permit must comply with applicable requirements in municipal storm water management programs developed under NPDES permits issued for the discharge from the municipal separate storm sewer system that receives the facility's discharge provided the discharger has been notified of such conditions.

E. CONSISTENCY WITH OTHER PLANS. Storm water management programs may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under section 311 of the CWA or Best Management Practices (BMP) Programs otherwise required by an NPDES permit and may incorporate any part of such plans into the storm water pollution prevention plan by reference.

F. ADDITIONAL REQUIREMENTS FOR STORM WATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY FROM FACILITIES SUBJECT TO SARA TITLE III, SECTION 313 REQUIREMENTS. Storm water pollution prevention plans for facilities subject to reporting requirements under

SARA Title III, Section 313 for chemicals which are classified as "Section 313 water priority chemicals" in accordance with the definition in Part VIII of this permit are required to include, in addition to the information listed above, a discussion of the facility's conformance with the appropriate guidelines listed below:

F.(1). In areas where Section 313 water priority chemicals are stored, processed or otherwise handled, appropriate containment, drainage control and/or diversionary structures shall be provided. At a minimum, one of the following preventive systems or its equivalent shall be used:

F.(1).(a). curbing, culverting, gutters, sewers or other forms of drainage control to prevent or minimize the potential for storm water run-on to come into contact with significant sources of pollutants; or

F.(1).(b). roofs, covers or other forms of appropriate protection to prevent storage piles from exposure to storm water, and wind blowing.

F.(2). If the installation of structures or equipment listed in Parts III.C.4.F.(3).(a).(ii). or III.C.4.F.(3).(c). of this permit is not economically achievable at a given facility, the facility shall develop and implement a spill contingency and integrity testing plan which provides a description of measures that ensure spills or other releases of toxic amounts of Section 313 water priority chemicals do not occur as an alternative to Parts III.C.4.F.(3).(a).(ii). or III.C.4.F.(3).(c). of this permit. A spill contingency and integrity plan developed under this paragraph shall comply with the minimum requirements listed in Parts III.C.4.F.(2).(a). through (d).

F.(2).(a). The plan shall include a detailed description which demonstrates that the requirements of paragraphs III.C.4.F.(3).(a).(ii). and III.C.4.F.(3).(c). of this permit are not economically achievable;

F.(2).(b). A spill contingency plan must include, at a minimum:

F.(2).(b).(i). a description of response plans, personnel needs, and methods of mechanical containment;

F.(2).(b).(ii). steps to be taken for removal of spilled Section 313 water priority chemicals;

F.(2).(b).(iii). access to and availability of sorbents and other equipment; and

F.(2).(b).(iv). such other information as required by the Department.

F.(2).(c). The testing component of the alternative plan must provide for conducting integrity testing of storage tanks at least once every five years, and conducting integrity and leak testing of valves and piping a minimum of every year; and

F.(2).(d). A written and actual commitment of manpower, equipment and materials required to comply with the provisions of Parts III.C.4.F.(2).(b). and (c). of this permit and to expeditiously control and remove quantities of Section 313 water priority chemicals that may result in a toxic discharge.

F.(3). In addition to the minimum standards listed under paragraph III.C.4.F.(1). of this permit, the storm water pollution prevention plan shall include a complete discussion of measures taken to conform with the following applicable guidelines:

F.(3).(a). LIQUID STORAGE AREAS WHERE STORM WATER COMES INTO CONTACT WITH EQUIPMENT OR A TANK, CONTAINER, OR OTHER VESSEL USED FOR SECTION 313 WATER PRIORITY CHEMICALS.

F.(3).(a).(i). No tank or container shall be used for the storage of a Section 313 water priority chemical unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature, etc.

F.(3).(a).(ii). Secondary containment, sufficient to contain the capacity of the largest single container or tank in a drainage system where Section 313 water priority chemicals are stored shall be provided. If the secondary containment area and its upstream drainage system are subject to precipitation, an allowance for drainage from a 10-year, 24-hour precipitation event shall be provided over and above the volume necessary to contain the largest single tank or container. Either a secondary containment system shall be sufficiently impervious to contain spilled Section 313 water priority chemicals until they can be removed or treated or the plan must include spill contingency provisions which include, at a minimum, a description of response plans, personnel needs, and methods of mechanical containment; steps to be taken for removal of spilled Section 313 water priority chemicals; and access to and availability of sorbents and other equipment. The plant treatment system may be used to provide secondary containment, provided it has sufficient excess holding capacity always available to hold the contents of the largest container in the drainage area plus an allowance for drainage from a 10-year, 24-hour precipitation event.

F.(3).(b). MATERIAL STORAGE AREAS FOR SECTION 313 WATER PRIORITY CHEMICALS OTHER THAN LIQUIDS.
Material storage areas for Section 313 water priority chemicals other than liquids, which are subject to runoff, leaching, or wind blowing, shall incorporate drainage or other control features which will minimize the discharge of Section 313 water priority chemicals.

F.(3).(c). TRUCK AND RAIL CAR LOADING AND UNLOADING AREAS FOR LIQUID SECTION 313 WATER PRIORITY CHEMICALS.
Truck and rail car loading and unloading areas for liquid Section 313 water priority chemicals shall be operated to minimize discharges of Section 313 water priority chemicals. Drip pans shall be placed at locations where spillage may occur such as hose connections, hose reels and filler nozzles. Drip pans shall

always be used when making and breaking hose connections. A drip pan system shall be installed within the rails of railways to collect spillage from tank cars. Truck loading/unloading docks shall have overhangs or door skirts that enclose the trailer end.

F.(3).(d). IN PLANT AREAS WHERE SECTION 313 WATER PRIORITY CHEMICALS ARE TRANSFERRED, PROCESSED OR OTHERWISE HANDLED. Processing equipment and material handling equipment shall be designed and operated so as to minimize discharges of Section 313 chemicals. Materials used in piping and equipment shall be compatible with the substances handled. Drainage from process and materials handling areas shall be designed as described in paragraphs F.(3).(a), (b), and (c), of this section. Additional protection, such as covers or guards to prevent wind blowing, spraying or releases from pressure relief vents shall be provided as appropriate to prevent discharge of Section 313 water priority chemicals. Visual inspections or leak tests shall be provided for overhead piping conveying Section 313 water priority chemicals without secondary containment.

F.(3).(e). DISCHARGES FROM AREAS COVERED BY PARAGRAPHS F.(3).(A), (B), (C) OR (D).

F.(3).(e).(i). Drainage from areas covered by paragraphs F.(3).(A), (B), (C) or (D) of this part shall be restrained by valves or other positive means to prevent the discharge of a spill or other excessive leakage of Section 313 water priority chemicals. Containment areas may be emptied by pumps or ejectors; however, these shall be manually activated.

F.(3).(e).(ii). Flapper-type drain valves shall not be used to drain containment areas. Valves used for the drainage of containment areas shall, as far as is practical, be of manual, open-and-closed design.

F.(3).(e).(iii). If plant drainage is not engineered as above, the final discharge of all in-plant storm sewers should be equipped to be equivalent with a diversion system that could, in the event of an uncontrolled spill of Section 313 water priority chemicals, return the spilled material to the facility.

F.(3).(e).(iv). Records shall be kept of the frequency and estimated volume (in gallons) of discharges from containment areas.

F.(3).(f). PLANT SITE RUNOFF OTHER THAN FROM AREAS COVERED BY F.(3).(A), (B), (C) OR (D). Other areas of the facility (those not addressed in paragraphs F.(3).(a), (b), (c) or (d)), from which runoff which may contain Section 313 water priority chemicals or spills of Section 313 water priority chemicals could cause a discharge, shall incorporate the necessary drainage or other control features to prevent the discharge of spilled or improperly disposed material and ensure the mitigation of pollutants in runoff or leachate.

F.(3).(g). PREVENTIVE MAINTENANCE AND HOUSEKEEPING. All areas of the facility shall be inspected at specific intervals for leaks or conditions that could lead to discharges of Section 313 water priority chemicals or direct contact of storm water with raw materials, intermediate materials, waste materials or products. In particular, plant piping, pumps, storage tanks and bins, pressure vessels, process and material handling equipment, and material bulk storage areas shall be examined for any conditions or failures which could cause a discharge. Inspections shall include examination for leaks, wind blowing, corrosion, support or foundation failure, or other forms of deterioration or noncontainment. Inspection intervals shall be specified in the plan and shall be based on design and operational experience. Different areas may require different inspection intervals. Where a leak or other condition is discovered which may result in significant releases of Section 313 water priority

chemicals to the drainage system, corrective action shall be immediately taken or the unit or process shut down until corrective action can be taken. When a leak or noncontainment of a Section 313 water priority chemical has occurred, contaminated soil, debris, or other material must be promptly removed and disposed in accordance with Federal and State requirements and as described in the plan.

F.(3).(h). FACILITY SECURITY. Facilities shall have the necessary security systems to prevent accidental or intentional entry which could cause a discharge. Security systems described in the plan shall address fencing, lighting, vehicular traffic control, and securing of equipment and buildings.

F.(3).(i). TRAINING. Facility employees and contractor personnel using the facility shall be trained in and informed of preventive measures at the facility. Employee training shall be conducted at intervals specified in the plan, but not less than once per year, in matters of pollution control laws and regulations, and in the storm water pollution prevention plan and the particular features of the facility and its operation which are designed to minimize discharges of Section 313 water priority chemicals. The plan shall designate a person who is accountable for spill prevention at the facility and who will set up the necessary spill emergency procedures and reporting requirements so that spills and emergency releases of Section 313 water priority chemicals can be isolated and contained before a discharge of a Section 313 water priority chemical can occur. Contractor or temporary personnel shall be informed of plant operation and design features in order to prevent discharges or spills from occurring.

G. SALT STORAGE. Storage piles of salt at a facility that falls under the definition of "storm water discharge associated with industrial activity" where the salt piles are used for deicing or other commercial or industrial purposes shall be enclosed or covered to prevent exposure to precipitation.

H. NON-STORM WATER DISCHARGES. Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2. of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

5. All storm water pollution prevention plans received by the Department from the permittee are considered reports that shall be available to the public under Section 308(b) of the CWA and Chapter 22 of the Code of Iowa. However, the permittee may claim any portion of a storm water pollution plan as confidential in accordance with Chapter 22 of the Code of Iowa and Iowa Administrative Code (561)-2.5.
6. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

PART IV. NUMERIC EFFLUENT LIMITATIONS

COAL PILE RUNOFF. Any storm water composed in part or in whole of coal pile runoff shall not exceed a maximum concentration at any time of 50.0 mg/l total suspended solids. The pH of these discharges shall be within the range of 6.0-9.0. Any untreated overflow from facilities designed, constructed and operated to treat the volume of coal pile runoff which is associated with a 10 year, 24 hour rainfall event shall not be subject to the limitations of this part.

PART V. MONITORING AND REPORTING REQUIREMENTS

- A. FAILURE TO CERTIFY. Any facility that is unable to provide the certification required under Part III.C.4.(b).(10). (testing for non-storm water discharges) within 180 days of the discharge authorization date, must prepare a written description of the

procedures used in any test conducted for the presence of non-storm water discharges; the results of the test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. This "failure to certify" description must be kept on-site and be made available to the Department upon request.

B. MONITORING REQUIREMENTS. The following monitoring requirements are delineated for specific facilities that fall under the definition of "storm water discharge associated with industrial activity".

1. **SECTION 313 OF SARA TITLE III FACILITIES.** During the period beginning on the discharge authorization date and lasting through the expiration date of this permit, facilities subject to requirements to report releases into the environment under Section 313 of SARA Title III for chemicals which are classified as Section 313 water priority chemicals are subject to the following monitoring requirements for storm water discharges associated with industrial activity that comes into contact with any equipment, tank, container or other vessel used for storage of a Section 313 water priority chemical, or located at a truck or rail car loading or unloading area where a Section 313 water priority chemical is handled;

A. PARAMETERS. The parameters to be measured include:

- * oil and grease (mg/l);
- * five day biochemical oxygen demand (BOD₅) (mg/l);
- * chemical oxygen demand (COD) (mg/l);
- * total suspended solids (TSS) (mg/l);
- * total Kjeldahl nitrogen (TKN) (mg/l);
- * total phosphorus (mg/l);
- * pH;
- * any Section 313 water priority chemical for which the facility is subject to reporting requirements under Section 313 of the Emergency Planning and Community Right to Know Act of 1986;

- * the date and duration (in hours) of the storm event(s) sampled;
- * rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;
- * the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and,
- * an estimate of the total volume (in gallons) of the discharge sampled.

B. FREQUENCY OF MONITORING. Sampling shall be conducted at least annually (1 time per year) except as provided by paragraphs V.B.13. or V.B.14.;

2. **PRIMARY METAL INDUSTRIES.** During the period beginning on the discharge authorization date and lasting through the expiration date of this permit, facilities classified as Standard Industrial Classification (SIC) 33 (Primary Metal Industry) are subject to the following monitoring requirements for storm water discharges associated with industrial activity that are discharged from the facility:

A. PARAMETERS. The parameters to be measured include:

- * oil and grease (mg/l);
- * five day biochemical oxygen demand (BOD₅) (mg/l);
- * chemical oxygen demand (COD) (mg/l);
- * total suspended solids (TSS) (mg/l);
- * total Kjeldahl nitrogen (TKN) (mg/l);
- * nitrate plus nitrite nitrogen (mg/l);
- * total phosphorus (mg/l);
- * pH;
- * total lead (Pb) (mg/l);
- * total cadmium (Cd) (mg/l);
- * total copper (Cu) (mg/l);
- * total arsenic (As) (mg/l);
- * total chromium (Cr) (mg/l);
- * any pollutant limited in an effluent guideline to which the facility is subject;
- * the date and duration (in hours) of the storm event(s) sampled;
- * rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;

- * the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and,
- * an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g. low (under 40%), medium (40% to 65%) or high (above 65%));

B. FREQUENCY OF MONITORING.

Sampling shall be conducted at least annually (1 time per year) except as provided by paragraphs V.B.13. or V.B.14.;

3. LAND DISPOSAL UNITS/INCINERATORS.

During the period beginning on the discharge authorization date and lasting through the expiration date of this permit, storm water discharge associated with industrial activity from any active or inactive landfill, land application site, or open dump that received any industrial wastes (except facilities that only receive construction debris) and that have not installed a stabilized final cover, and incinerators that burn hazardous waste and operate under interim status or a permit under Subtitle C of RCRA, are subject to the following monitoring requirements:

A. PARAMETERS. The parameters to be measured include:

- * ammonia (mg/l);
- * bicarbonate (mg/l);
- * calcium (mg/l);
- * chloride (mg/l);
- * total iron (mg/l);
- * magnesium (total) (mg/l);
- * magnesium (dissolved) (mg/l);
- * nitrate plus nitrite nitrogen (mg/l);
- * potassium (mg/l);
- * sodium (mg/l);
- * sulfate (mg/l);
- * chemical oxygen demand (COD) (mg/l);
- * total dissolved solids (TDS) (mg/l);
- * total organic carbon (TOC) (mg/l);
- * oil and grease (mg/l);
- * pH;
- * total arsenic (As) (mg/l);
- * total barium (mg/l);

- * total cadmium (Cd) (mg/l);
- * total chromium (Cr) (mg/l);
- * total cyanide (mg/l);
- * total lead (Pb) (mg/l);
- * total mercury (mg/l);
- * total selenium (mg/l);
- * total silver (mg/l);
- * the date and duration (in hours) of the storm event(s) sampled;
- * rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;
- * the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and,
- * an estimate of the total volume (in gallons) of the discharge sampled.

B. FREQUENCY OF MONITORING.

Sampling shall be conducted at least annually (1 time per year) except as provided by paragraphs V.B.13. or V.B.14.;

4. WOOD TREATMENT (CHLOROPHENOLIC/CREOSOTE FORMULATIONS).

During the period beginning on the discharge authorization date and lasting through the expiration date of this permit, storm water discharges associated with industrial activity from areas that are used for wood treatment, wood surface application or storage of treated or surface protected wood at any wood preserving or wood surface facilities that currently use chlorophenolic formulations and/or creosote formulation are subject to the following monitoring requirements:

A. PARAMETERS. The parameters to be measured include:

- * oil and grease (mg/l);
- * pH;
- * five day biochemical oxygen demand (BOD5) (mg/l);
- * chemical oxygen demand (COD) (mg/l);
- * total suspended solids (TSS) (mg/l);
- * total phosphorus (mg/l);
- * total Kjeldahl nitrogen (TKN) (mg/l);
- * nitrate plus nitrite nitrogen (mg/l);
- * pentachlorophenol (mg/l);

- * the date and duration (in hours) of the storm event(s) sampled;
- * rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;
- * the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and,
- * an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g. low (under 40%), medium (40% to 65%) or high (above 65%)).

B. FREQUENCY OF MONITORING. Sampling shall be conducted at least annually (1 time per year) except as provided by paragraphs V.B.13. or V.B.14.;

5. **WOOD TREATMENT (ARSENIC OR CHROMIUM PRESERVATIVES).** During the period beginning on the discharge authorization date and lasting through the expiration date of this permit, storm water discharge associated with industrial activity from areas that are used for wood treatment or storage of treated wood at any wood preserving facilities that currently use inorganic preservatives containing arsenic or chromium are subject to the following monitoring requirements:

A. PARAMETERS. The parameters to be measured include:

- * oil and grease (mg/l);
- * pH;
- * five day biochemical oxygen demand (BOD₅) (mg/l);
- * chemical oxygen demand (COD) (mg/l);
- * total suspended solids (TSS) (mg/l);
- * total phosphorus (mg/l);
- * total Kjeldahl nitrogen (TKN) (mg/l);
- * nitrate plus nitrite nitrogen (mg/l);
- * total arsenic (As) (mg/l);
- * total chromium (Cr) (mg/l);
- * total copper (Cu) (mg/l);
- * the date and duration (in hours) of the storm event(s) sampled;

- * rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;
- * the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and,
- * an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g. low (under 40%), medium (40% to 65%) or high (above 65%)).

B. FREQUENCY OF MONITORING. Sampling shall be conducted at least annually (1 time per year) except as provided by paragraphs V.B.13. or V.B.14.;

6. **COAL PILE RUNOFF.** During the period beginning on the discharge authorization date and lasting through the expiration date of this permit, storm water discharge associated with industrial activity from coal pile runoff are subject to the following monitoring requirements:

A. PARAMETERS. The parameters to be measured include:

- * oil and grease (mg/l);
- * pH;
- * total suspended solids (TSS) (mg/l);
- * total copper (Cu) (mg/l);
- * total nickel (mg/l);
- * total zinc (mg/l);
- * the date and duration (in hours) of the storm event(s) sampled;
- * rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;
- * the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and,
- * an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g. low (under 40%), medium (40% to 65%) or high (above 65%)).

B. FREQUENCY OF MONITORING.
Sampling shall be conducted at least annually (1 time per year) except as provided by paragraphs V.B.13. or V.B.14.;

7. AIRPORTS. During the period beginning on the effective date and lasting through the expiration date of this permit, storm water discharge associated with industrial activity from runways and areas used for aircraft deicing at airports with over 50,000 flight operations per year are subject to the following monitoring requirements during a deicing event:

A. PARAMETERS. The parameters to be measured include:

- * oil and grease (mg/L);
- * five day biochemical oxygen demand (BOD₅) (mg/L);
- * chemical oxygen demand (COD) (mg/L);
- * total suspended solids (TSS) (mg/L);
- * total Kjeldahl nitrogen (TKN) (mg/L);
- * total phosphorus (mg/L);
- * pH;
- * ethylene glycol (mg/l).
- * the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;
- * the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and
- * an estimate of the total volume (in gallons) of the discharge sampled shall be provided;

B. FREQUENCY OF MONITORING.
Sampling shall be conducted at least annually (1 time per year) during a deicing event except as provided by paragraph V.B.13. or V.B.14.;

8. ANIMAL HANDLING / MEAT PACKING.
During the period beginning on the effective date and lasting through the expiration date of this permit, storm water discharge associated with industrial activity from

animal handling areas, manure management (or storage) areas, and production waste management (or storage) areas that are exposed to precipitation at meat packing plants, poultry packing plants, facilities that manufacture animal and marine fats and oils, and facilities that manufacture dog and cat food from meat are subject to the following monitoring requirements:

A. PARAMETERS. The parameters to be measured include:

- * oil and grease (mg/L);
- * five day biochemical oxygen demand (BOD₅) (mg/L);
- * chemical oxygen demand (COD) (mg/L);
- * total suspended solids (TSS) (mg/L);
- * total Kjeldahl nitrogen (TKN) (mg/L);
- * total phosphorus (mg/L);
- * pH;
- * fecal coliform (counts per 200 ml)
- * the date and duration (in hours) of the storm event(s) sampled;
- * rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;
- * the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and
- * an estimate of the total volume (in gallons) of the discharge sampled shall be provided;

B. FREQUENCY OF MONITORING.
Sampling shall be conducted at least annually (1 times per year) except as provided by paragraph V.B.13. or V.B.14.;

9. BATTERY RECLAIMERS - During the period beginning on the effective date and lasting through the expiration date of this permit, storm water discharge associated with industrial activity from facilities that reclaim lead acid batteries are subject to the following monitoring requirements:

A. PARAMETERS. The parameters to be measured include:

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- * oil and grease (mg/L);
- * five day biochemical oxygen demand (BOD₅) (mg/L);
- * chemical oxygen demand (COD) (mg/L);
- * total suspended solids (TSS) (mg/L);
- * total Kjeldahl nitrogen (TKN) (mg/L);
- * total phosphorus (mg/L);
- * pH;
- * lead (mg/l)
- * the date and duration (in hours) of the storm event(s) sampled;
- * rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;
- * the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and
- * an estimate of the total volume (in gallons) of the discharge sampled shall be provided;

B. FREQUENCY OF MONITORING.
Sampling shall be conducted at least annually (1 time per year) except as provided by paragraph V.B.13. or V.B.14.;

10. **COAL-FIRED STEAM ELECTRIC FACILITIES.**
During the period beginning on the effective date and lasting through the expiration date of this permit, storm water discharge associated with industrial activity from coal handling sites other than coal piles at coal fired steam electric power generating facilities are subject to the following monitoring requirements:

A. PARAMETERS. The parameters to be measured include:

- * oil and grease (mg/L);
- * total suspended solids (TSS) (mg/L);
- * copper;
- * nickel;
- * zinc;
- * pH;
- * the date and duration (in hours) of the storm event(s) sampled;
- * rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;

- * the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and
- * an estimate of the total volume (in gallons) of the discharge sampled shall be provided;

B. FREQUENCY OF MONITORING.
Sampling shall be conducted at least annually (1 time per year) except as provided by paragraph V.B.13. or V.B.14.;

11. **ADDITIONAL FACILITIES** During the period beginning on the effective date and lasting through the expiration date of this permit, facilities with storm water discharge associated with industrial activity that: come in contact with storage piles for solid chemicals used as raw materials that are exposed to precipitation at facilities classified as SIC 30 (Rubber and Miscellaneous Plastics Products) or SIC 28 (Chemicals and Allied Products); automobile junkyards with over 250 units; come into contact with sludge storage and handling areas at POTWs with a service population of over 100,000 or sludge incinerators or digesters associated with a POTW with a service population of over 100,000; come into contact with lime storage piles that are exposed to precipitation at lime manufacturing facilities; from oil handling sites at oil fired steam electric power from generating facilities; from facilities that manufacture asphalt paving mixtures and blocks; from cement manufacturing facilities and cement kilns; from ready-mixed concrete facilities; or from ship building and repairing facilities, are subject to the following monitoring requirements:

A. PARAMETERS. The parameters to be measured include:

- * oil and grease (mg/L);
- * five day biochemical oxygen demand (BOD₅) (mg/L);
- * chemical oxygen demand (COD) (mg/L);
- * total suspended solids (TSS) (mg/L);
- * total Kjeldahl nitrogen (TKN) (mg/L);
- * total phosphorus (mg/L);

- * pH;
- * any pollutant limited in an effluent guideline to which the facility is subject
- * the date and duration (in hours) of the storm event(s) sampled;
- * rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;
- * the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and
- * an estimate of the total volume (in gallons) of the discharge sampled shall be provided;

B. FREQUENCY OF MONITORING. Sampling shall be conducted at least annually (1 time per year) except as provided by paragraph V.B.13. or V.B.14.;

12. SAMPLE TYPE. For discharges from holding ponds or other impoundments with a retention period greater than 24 hours, (estimated by dividing the volume of the detention pond by the discharge rate) a minimum of one grab sample may be taken. For all other discharges, data shall be reported for both a grab sample and a composite sample. All samples shall be collected from a discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first hour of the discharge. The composite sample shall either be flow-weighted or time-weighted. Composite samples may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen minutes. Only grab samples may be collected and analyzed for the determination of pH, temperature, cyanide, total phenols, residual chlorine, fecal coliform, fecal streptococcus, and oil and grease.

13. SAMPLING WAIVER. When a discharger is unable to collect samples due to adverse climatic conditions, the discharger must explain, in writing, why samples could not be collected, including available documentation of the event, and retain a copy of the explanation in accordance with Part V.D of this permit. Adverse climatic conditions which may prohibit the collection of samples include weather that creates dangerous conditions for personnel (such as local flooding, high winds, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

14. REPRESENTATIVE DISCHARGE. When a facility has two or more outfalls that, based on a consideration of features and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and report that the quantitative data also applies to the substantially identical outfall(s). In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g. low (under 40%), medium (40% to 65%) or high (above 65%)) shall be provided.

- C. NONCOMPLIANCE REPORTING. Permittees that are not required to monitor must report all incidences of non-compliance to the Department at least annually.

D. REPORTING.

1. Permittees which are subject to the monitoring requirement of Part IV NUMERIC EFFLUENT LIMITATIONS are required to submit signed copies of discharge monitoring results on Discharge Monitoring Report Forms(s) within 30 days after the sampling occurred.
2. Except as provided in Part D.1. of this permit, permittees are not required to submit monitoring results. However, such permittees

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must retain monitoring results in accordance with Part V.E. and be available to the Department upon request.

3. ADDITIONAL NOTIFICATION. Facilities with at least one storm water discharge associated with industrial activity through a municipal separate storm sewer system must submit signed copies of discharge monitoring reports or results to the operator of the municipal separate storm sewer system upon request.

E. RETENTION OF RECORDS.

1. The permittee shall retain a copy of the storm water pollution prevention plan, records of all monitoring information, copies of all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit for the duration of the permit or for a period of at least three years from the date of the measurement, report, inspection, etc.
2. Permittees must submit monitoring results to the Department upon the request of the Department, and submit a summary of monitoring results as part of renotification requirements in accordance with Part II.F.

- F. ADDRESSES. All written correspondence to the Department should be sent to the following address:

Storm Water Coordinator
Iowa Department of Natural Resources
Henry A. Wallace Building
502 E. 9th St.
Des Moines, IA 50319-0034

or

FAX #(515)281-8895

PART VI. STANDARD PERMIT CONDITIONS

A. DUTY TO COMPLY.

The permittee must comply with all conditions of this permit. Any permit

noncompliance constitutes a violation of the Code of Iowa and the Clean Water Act and is grounds for enforcement action; for termination of coverage under this general permit; or for denial of a request for coverage under a reissued general permit.

1. TOXIC POLLUTANTS.

The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants, within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS.

Section 309 of the CWA provides significant penalties for any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any permit condition or limitation implementing any such sections in a permit issued under section 402. Any person who violates any permit condition of this permit is subject to a civil penalty not to exceed \$25,000 per day of such violation, as well as any other appropriate sanction provided by section 309 of the CWA.

B. CONTINUATION OF THE EXPIRED GENERAL PERMIT.

This permit expires on October 1, 2007. However, an expired general permit shall continue in effect for 180 days after the general permit has expired. Only those facilities authorized to discharge under the expiring general permit are covered by the continued permit.

C. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted

activity in order to maintain compliance with the conditions of this permit.

D. DUTY TO MITIGATE.

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. DUTY TO PROVIDE INFORMATION.

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department upon request copies of records required to be kept by this permit.

F. OTHER INFORMATION.

When the permittee becomes aware that he or she failed to submit any relevant facts, or submitted incorrect information in the Notice of Intent or in any other report to the Department, he or she shall promptly submit such facts or information.

G. SIGNATORY REQUIREMENTS.

All Notices of Intent, storm water pollution prevention plans, reports, certifications or information either submitted to the Department or the operator of a large or medium municipal separate storm sewer system, ~~or~~ that this permit requires be maintained by the permittee, shall be signed in accordance with rule 567-64.3(8) of the Iowa Administrative Code as follows:

64.3(8) *Identity of signatories of operation permit applications.* The person who signs the application for an operation permit shall be:

a. *Corporations.* In the case of corporations, a principal executive officer of at least the level of vice-president.

b. *Partnerships.* In the case off a partnership, a general partner.

c. *Sole proprietorships.* In the case of a sole proprietorship, the proprietor.

d. *Public facilities.* In the case of a municipal, state, or other public facility, by either the principal executive officer, or the ranking elected official.

e. *Storm water discharge associated with industrial activity from construction activity.* In the case of a storm water discharge associated with industrial activity from construction as identified in 40 CFR 122.26(b)(14)(x), either the owner of the site or the general contractor.

The person who signs NPDES reports shall be the same, except that in the case of a corporation or a public body, monitoring reports required under the terms of the permit may be submitted by the person who is responsible for the overall operation of the facility from which the discharge originated.

H. CERTIFICATION.

Any person signing documents required by this permit shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fine and imprisonment for knowing violations."

I. OIL AND HAZARDOUS SUBSTANCE LIABILITY.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Clean Water Act.

J. PROPERTY RIGHTS.

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

K. SEVERABILITY.

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

L. TRANSFERS.

This permit is not transferable to any person except after notice to the Department. The Department may require the operator to apply for and obtain an individual NPDES permit as stated in paragraph I.C.

M. PROPER OPERATION AND MAINTENANCE.

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate

laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

N. MONITORING AND RECORDS.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Analyses must be performed by a laboratory certified in Iowa to perform such analyses in conformance with Chapter 83. I.A.C.

2. The permittee shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of the reports required by this permit, and records of all data used to complete the application for this permit for the duration of this permit or three years after the measurement, whichever is later.

3. RECORDS CONTENTS. Records of monitoring information shall include:

A. The date, exact place, and time of sampling or measurements;

B. The initials or name(s) of the individual(s) who performed the sampling or measurements;

C. The date(s) analyses were performed;

D. The time(s) analyses were initiated;

E. The initials or name(s) of the individual(s) who performed the analyses;

F. References and written procedures, when available, for the analytical techniques or methods used; and

G. The results of the analyses, including the bench sheets, instrument readouts, computer

disks or tapes, etc., used to determine these results.

4. Monitoring must be conducted according to test procedures specified in Iowa Administrative Code 567—Chapter 63 unless other test procedures have been specified in this permit.

5. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both.

O. BYPASS OF TREATMENT FACILITIES

1. NOTICE.

A. ANTICIPATED BYPASS. If the permittee knows in advance of the need for a bypass, he or she shall submit prior notice, if possible, at least ten days before the date of the bypass, including an evaluation of the anticipated quality and effect of the bypass.

B. UNANTICIPATED BYPASS. The permittee shall submit notice of an unanticipated bypass. Any information regarding the unanticipated bypass shall be provided orally within 24 hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the bypass and its cause; the period of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

2. PROHIBITION OF BYPASS.

A. A bypass is prohibited and the Department may take enforcement action against a permittee for a bypass unless:

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2). There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment down time. This condition is not satisfied if the permittee should, in the exercise of reasonable engineering judgment, have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3). The permittee submitted notices as required under paragraph VI.O.1. of this section.

B. The Department may approve an anticipated bypass after considering its adverse effects, if the Department determines that it will meet the three conditions listed in paragraph VI.O.2.a. of this section.

P. UPSET CONDITIONS.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit limitations if the requirements of paragraph 2 below are met.

2. A permittee who wishes to establish the affirmative defense of an upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

A. An upset occurred and that the permittee can identify the specific cause(s) of the upset:

B. The permitted facility was at the time being properly operated;

C. The permittee submitted notice of the upset; and,

D. The permittee complied with any remedial measures required under Part III.C.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

Q. INSPECTION AND ENTRY.

The permittee shall allow the Department or an authorized representative of EPA, the State, or, in the case of a facility which discharges through a municipal separate storm sewer, an authorized representative of the municipal operator of the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and
3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).

R. PERMIT ACTIONS.

Coverage under this permit may be terminated for cause. The filing of a request by the permittee for a permit discontinuance, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

PART VII. REOPENER CLAUSE

If there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with industrial activity covered

by this permit, the permittee may be required to obtain an individual permit in accordance with Part I.C. of this permit.

PART VIII. DEFINITIONS

"Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Coal pile runoff" means the rainfall runoff from or through any coal storage pile.

"CWA" or "Clean Water Act" means the Federal Water Pollution Control Act.

"Dedicated portable asphalt plant" means a portable asphalt plant that is located on or contiguous to a construction site and that provides asphalt only to the construction site that the plant is located on or adjacent to.

"Dedicated portable concrete plant" means a portable concrete plant that is located on or contiguous to a construction site and that provides concrete only to the construction site that the plant is located on or adjacent to.

"Dedicated sand or gravel operation" means an operation that produces sand and/or gravel for a single construction project.

"Department" means the Iowa Department of Natural Resources.

"Discharge authorization date" refers to October 1, 1992 for storm water discharges associated with industrial activity with requirements to apply on or before October 1, 1992. For all other storm water discharges, the discharge authorization

date will be the date that the discharge will begin or the date in which all the requirements of Part II.C. have been met, whichever is later.

"Flow-weighted composite sample" means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

"Hazardous condition" means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance on to the land, into a water of the state, or into the atmosphere, which creates an immediate or potential danger to the public health or safety or to the environment. 455B.381(2) 1991, Code of Iowa

"Hazardous substance" means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that, in confinement, generates pressure through decomposition, heat, or other means. The following are examples of substances which, in sufficient quantity may be hazardous: acids; alkalis; explosives; fertilizers; heavy metals such as chromium, arsenic, mercury, lead and cadmium; industrial chemicals; paint thinners; paints; pesticides; petroleum products; poisons, radioactive materials; sludges; and organic solvents. "Hazardous substances" may include any hazardous waste identified or listed by the administrator of the United State Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under section 311 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the secretary of transportation under the Hazardous Materials Transportation Act (49 CFR 172.101). 455B.381(1), 1991 Code of Iowa

"Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a land application unit, surface impoundment, injection well, or waste pile.

"Land application unit" means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for treatment or disposal.

"Large and Medium municipal separate storm sewer system" means all municipal separate storm sewers that are either:

(i) located in an incorporated place with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census; or

(ii) located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

(iii) owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Department as part of the large or medium municipal separate storm sewer system.

"Municipality" means a city, town, borough, county, parish, district, association, or other public body created by or under State law.

"NOI" means Notice of Intent to be covered by this permit (see Part II of this permit.)

"Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.

"Section 313 water priority chemical" means a chemical or chemical categories which are:

1) Listed at 40 CFR 372.65 pursuant to Section 313 of Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, also titled the Emergency Planning and Community Right-to-Know Act of 1986;

2) Present at or above threshold levels at a facility subject to SARA Title III, Section 313 reporting requirements; and

3) Meet at least one of the following criteria:

(i) are listed in Appendix D of 40 CFR 122 on either Table II (organic priority pollutants), Table III

(certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances);

(ii) are listed as a hazardous substance pursuant to section 311(b)(2)(A) of the CWA at 40 CFR 116.4; or

(iii) are pollutants for which EPA has published acute or chronic water quality criteria.

"Severe Property Damage" means substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Storm Water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR part 122. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.

For the categories of industries identified in paragraph (xi) of this definition, the term includes

only storm water discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in these paragraphs (i)-(xi) of the definition) include those facilities designated under 40 CFR 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this definition;

(i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this definition);

(ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;

(iii). Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities

that discharge storm water contaminated by contact with or that has come into contact with; any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;

(v) Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;

(vi) facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-4225), 43, 44, 45 and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)-(vii) or (ix)-(xi) of this definition are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment,

recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;

(x) Construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than one acre of total land area which are not part of a larger common plan of development or sale;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-4225, (and which are not otherwise included within categories (ii)-(x));

"Storm water discharge associated with industrial activity from asphalt plants, concrete batch plants and rock crushing plants" means storm water discharge associated with industrial activity from facilities engaged in manufacturing asphalt paving mixtures and which are classified under Standard Industrial Classification 2951, primarily engaged in manufacturing portland cement concrete delivered to a purchaser in a plastic and unhardened state and which is classified under Standard Industrial Classification 3273 and those facilities which are classified under Standard Industrial Classifications 1422 or 1423 which are primarily engaged in the crushing, grinding or pulverizing of limestone or granite.

"Storm water discharge associated with industrial activity for construction activities" means storm water discharges from activities that fall under subparagraph (x).

"Time-weighted composite" means a composite sample consisting of a mixture of equal volume aliquots collected at a constant time interval.

IOWA DEPARTMENT OF NATURAL RESOURCES NPDES GENERAL PERMIT NO. 1
STORM WATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY
EFFECTIVE DATES - OCTOBER 1, 2002 TO OCTOBER 1, 2007

"Uncontrolled sanitary landfill" means a landfill, or open dump, whether in operation or closed, that does not meet the requirements for run-on or runoff control established pursuant to subtitle D of the Solid Waste Disposal Act.

"10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable reoccurrence interval of once in 10 years. This information is available in "Weather Bureau Technical Paper No. 40," May 1961 and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.